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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Service  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

[Redacted]

DATE: OCT 07 2014

Office: VERMONT SERVICE CENTER

FILE: [Redacted]

IN RE: Applicant:

[Redacted]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254. On February 5, 2014, the director denied the application because the applicant failed to establish she was eligible for late registration.

On appeal, counsel asserts that the applicant has been residing and physically present in the United States prior to requisite periods. Counsel requests that the applicant be allowed to register for TPS under the late registration provisions so that she can work and provide for her family. Counsel asserts that the applicant should not be penalized for the mix up with that of another individual [REDACTED] as it was not the applicant's fault. Counsel states since the applicant "was receiving work authorizations, like many others in similar situation, she saw no need to apply for TPS at the time." Counsel states that the applicant was first issued TPS on June 28, 1991.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Secretary may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for TPS during the initial registration period announced by public notice in the FEDERAL REGISTER, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:
    - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
    - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary

departure, or any relief from removal which is pending or subject to further review or appeal;

(iii) The applicant is a parolee or has a pending request for reparole; or

(iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until March 9, 2015, upon the applicant's re-registration during the requisite period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above. If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by U.S. Citizenship and Immigration Services (USCIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The AAO conducts appellate review on a *de novo* basis. See *Siddiqui v. Holder*, 670 F.3d 736, 741 (7th Cir. 2012).

The record reflects that the applicant filed her initial TPS application on May 15, 2012 and listed [REDACTED] as her alien registration number on the application. Along with evidence to establish her nationality, identity, continuous residence and continuous physical presence in the United States, the applicant also submitted photocopies of the following documents which included alien registration number [REDACTED] a) a letter dated December 12, 2007, from the [REDACTED] (Virginia) Asylum Office, indicating that an Application for Asylum (Form I-589) was still pending before its office; b) Notice of Action (Form I-797C) issued from June 1995 through September 2007 relating to the receipt or approval of her Application for Employment

Authorization (Form I-765); and c) several expired employment authorization cards (C08) under the name [REDACTED]

The record, however, reflects that on April 25, 2008, the applicant appeared for an interview at the Arlington Asylum Office and admitted that she did not file an asylum application in 1988; that she first entered the United States on October 30, 1990, not in 1986 as indicated on the Form I-589; and that the signature on the Form I-589 did not belong to her. The applicant was informed that she did not have a pending application at the Arlington Asylum Office and that alien registration number [REDACTED] did not belong to her. The applicant was instructed not to file any further documentation under [REDACTED]

A review of the applicant's file indicates that she indeed applied for and was granted TPS on June 28, 1991, during the 1991 TPS designation for El Salvador. The applicant was assigned alien registration number [REDACTED]. However, that designation terminated on June 30, 1992, and is unrelated to the present 2001 TPS re-designation for which the applicant is now applying. Contrary to counsel's assertion, the applicant was never issued employment authorization under category C-08 under her true alien registration number.

On April 26, 2013, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). In response, counsel asserted that the applicant meets the eligibility criteria for the late registration as she had a pending asylum application during the initial registration period. Counsel provided additional copies of the December 12, 2007 letter from the Arlington Asylum Office, two expired employment authorization cards and Form I-797C relating to receipt of Form I-765 that were previously submitted.

The director, in denying the application, informed the applicant of her statements made at the time of her interview on April 25, 2008 at the Arlington Asylum Office. The director noted that the asylum application was filed two years prior to the applicant's entry into the United States in October 1990. The director concluded that there was no record of a pending asylum application under the applicant's name and that she had failed to establish eligibility for late registration under 8 C.F.R. § 244.2(f)(2)(ii).

Counsel's brief on appeal has been considered. However, we are not required to approve an application where eligibility has not been demonstrated whether the applicant obtained previous employment authorization under asylum through fraud or by USCIS error. *See e.g. Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988). It would be absurd to suggest that USCIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS on this ground will be affirmed.

(b)(6)

*NON-PRECEDENT DECISION*

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An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed.